

CHARTER COMMISSION
CITY AND COUNTY OF HONOLULU

TUESDAY, DECEMBER 13, 2005
COUNCIL COMMITTEE ROOM
SECOND FLOOR, HONOLULU HALE
4:00 P.M.

MINUTES

Charter Commission Members Present:

Donn M. Takaki
Jeffrey T. Mikulina
Andy Chang
Jerry Coffee
E. Gordon Grau
Amy Hirano
Jared Kawashima
Darolyn H. Lendio
Jim Myers
James C. Pacopac
Jan N. Sullivan
Malcolm J. Tom
Stephen Meder – Late 5:36 p.m.

Others Present:

Chuck Narikiyo, Executive Administrator, Charter Commission
Diane Kawauchi, Deputy Corporation Counsel, Department of the Corporation Counsel
Lori K. K. Sunakoda, Deputy Corporation Counsel, Department of Corporation Counsel
Dawn Spurlin, Deputy Corporation Counsel, Department of Corporation Counsel
Loretta Ho, Secretary, Charter Commission
Nicole Love, Researcher, Charter Commission

I. Call to Order

Chair Donn Takaki called the meeting to order at 4:06 p.m., December 13, 2005.

II. Agenda Item 3. Executive Administrator's Report.

Executive Administrator Chuck Narikiyo reported on the status of the breakdown of the 99 proposed submissions. At the November 14, 2005 the Commission requested the Charter Commission staff breakdown the list into to 4 groups of 25 proposals to give fair consideration to each proposal. The Commissioners intent was to get an idea if they will continue to hear all proposals as a group or to create committees. After the meeting the Commissioners decided to continue to meet as a group and the remaining proposals will be heard in groups of 25 or so proposals.

Executive Administrator Narikiyo also reminded the Commission about the procedure on handling supermajority proposals. Any proposals received by the office after the October 31, 2005 deadline will be sent to the Commissioners for their consideration to be put on the agenda as a supermajority proposal issue for discussion and vote. If the issue receives 9 or more votes, the supermajority proposal will move onto first hearing. The supermajority consideration deadline is 30 days prior to the first scheduled public hearing. At this time the adopted calendar has the first public hearing scheduled for March 7, 2006 but is subject to change. Public hearing and outreach/educational meeting dates need to be finalized and confirmed by the Commission. The Charter Commission staff had tentatively reserved dates and places for these meetings.

Lastly, Executive Administrator Narikiyo reported that they had created a flow chart of the process on how the Commission is going to handle putting proposals on the electoral ballot for November 2006 based on the current Charter Commission rules and calendar. He asked the Commissioners to provide feedback on the handout.

III. Item 4. Discussion and Action – Initial Discussion and Vote on Proposal Items:

TESTIMONY:

A. RELATING TO DEPARTMENTS AND DIRECTORS

1. **PROPOSAL 27** – Liquor Commission and Civil Service; Exempt Liquor Control Administrator and Deputy Administrator from civil service.

The following individuals testified:

1. Stan Fichtman, Staff, Councilmember Charles Djou (Support)
2. Anna Hirai, Acting Administrator, Liquor Commission (Support)
3. William Woods

Written testimony:

1. Charles Djou, Councilmember, Honolulu City Council (Support)
2. Dennis Enomoto, Chairman, Liquor Commission (Support)

Mr. Fichtman of Councilmember Charles Djou's office read Councilmember Djou written testimony into the record.

Commissioner Lendio asked if the Liquor Commission Administrator was made an exempt position rather than a civil service position, would that still be an appointed position. Mr. Fichtman responded affirmatively. Commissioner Lendio asked whether the Liquor Commission would still have full managerial power over the administrator. Mr. Fichtman answered affirmatively. Commissioner Lendio asked if that would be the preference of Councilmember Djou, and also whether the current Administrator would be affected by this proposed change. Mr. Fichtman responded that it would be Councilmember Djou's preference to keep managerial responsibility with the Commission and reported that the Commission is seeking a new administrator who would be affected by this proposal. Commissioner Lendio asked if the Liquor Commission was planning to wait to see if this proposal goes forward before hiring a new administrator; Mr. Fichtman stated that he believed the Commission was proceeding with their plans to hire regardless of the status of this proposal.

Commissioner Chang asked what Councilmember Djou felt would be the reasons that the proposal would improve the current situation with regard to the Administrator. Mr. Fichtman responded that it was felt that removing the Administrator from the civil service system would lead to a better ability to resolve conflicts between the Commission and the Administrator and pointed to the recent threatened litigation over the Administrator position. Commissioner Chang asked if there were any previous similar incidents with regard to the Administrator. Mr. Fichtman responded that there had been other incidents in the past but did not cite any specific examples.

Commissioner Lendio asked why this is not handled by ordinance rather than charter amendment. Mr. Fichtman replied that the audit of the Liquor Commission recommended a charter amendment. Commissioner requested a copy of the Auditor's recommendation letter be provided to Commissioners.

Ms. Anna Hirai, Acting Administrator for the Liquor Commission testified on behalf of the Liquor Commission.

Commissioner Hirano asked Ms. Hirai whether she knew if the Liquor Commission supported this proposal. Ms. Hirai reported that all 4 Liquor Commissioners supported Proposal 27.

William Woods made a general comment that he believed all proposals should move on to the public hearing stage and that this initial review should be a screening process only. Commissioner Lendio agreed with the sentiment but noted that her approach to the process was to look at whether certain proposals would be better addressed via an ordinance.

2. [PROPOSAL 33](#) - Department of Emergency Services; Revise the Powers, Duties and Functions of the Director and the Department.

The following individuals testified:

1. Dr. Elizabeth Char, Director, Emergency Medical Services (Support with reservations)
2. Patricia Dukes, Chief of Emergency Services Division, Emergency Medical Services (Support with reservations)
3. Ralph Goto, Ocean Safety Administrator, Emergency Medical Service (Support with reservations)

Written testimony:

1. Dr. Elizabeth Char, Director, and Patricia Dukes, Chief of Emergency Services Division, Honolulu Emergency Service Department (Support)
2. Ralph Goto, Ocean Safety Administrator, Honolulu Emergency Services Department Ocean Safety & Lifeguard Services Department (Support)

Dr. Char testified that the proposal is simply an update to clarify what their department does.

Commissioner Chang asked, if these are functions already being done, why the felt charter amendment was necessary. Dr. Char replied that the current charter section is vague and does not accurately portray what they do. Commissioner Chang noted that the existing language is very broad and that his concern was that a change might limit the scope of the department. Dr. Char noted that there was a concern that the proposal may be too restricting and that they had some amended language for the Commission's review.

Chair Takaki asked whether this was more of a symbolic change rather than a practical change. Dr. Char replied that the functions of the department would not change but this would provide a more accurate description. Mr. Ralph Goto gave some history behind the Department's past reorganizations. Commissioner Sullivan asked Mr. Goto if there was a reason why they wanted specific language on ocean safety. Mr. Goto replied that they do have some changes to the language to clarify this and avoid confusion with state jurisdiction.

Ms. Dukes testified that EMS' role is more pre-hospital care and injury prevention, and that the proposed change would reflect that.

3. [PROPOSAL 35](#) - Department of Information Technology; Revise the Powers, Duties and Functions of the Director.

The following individuals testified:

1. Keith Rollman, Special Advisor, Department of Information Technology (Support)

Mr. Rollman summarized that the proposal was to update terminology to reflect current terms and to add the term "support" to the charter to reflect the department's current functions.

Chair Takaki asked whether the proposal was more to clean up the language rather than change the functions of the department, and Mr. Rollman responded affirmatively.

Commissioner Myers asked a general question regarding proposals that change language and are more cosmetic rather than substantive, whether these could be combined on the ballot. Deputy Corporation Counsel Diane Kawauchi responded that the text of language must be set forth separately on the ballot.

Commissioner Mikulina asked if this would prevent amalgamation of these types of proposals on the ballot. Deputy Corporation Counsel Kawauchi noted that each section of the charter that is to be amended must be set forth separately.

Commissioner Sullivan asked whether it was necessary to include the language regarding “executive and legislative branches”. Mr. Rollman responded that this language was probably redundant as city government is comprised of those two branches.

4. PROPOSAL 36 - Fire Chief; Revise the Powers, Duties and Functions of the Fire Chief and the Fire Department.

The following individuals testified:

1. Jacob Ng – Vice Chairman, Honolulu Fire Commission (Support)
2. Jane Greenwood (Oppose)
3. Kelly Yamamoto (Oppose)
4. Atillio Leonardi, Fire Chief, Honolulu Fire Department (Support)

Written testimony:

1. Jane Greenwood (Oppose)
2. Kelly Yamamoto (Oppose)
3. William “Buzzy” Hong, Chairman, Honolulu Fire Commission (Support)

Jacob Ng testified in support of the proposal, and summarized the intent of the proposal.

Jane Greenwood and Kelly Yamamoto both testified as individuals in opposition to the proposal. Ms. Greenwood, a paramedic, noted that the proposed change could lead to the Fire Department merging or taking over the responsibilities of EMS and could also negatively impact the ability of EMS to get grants. She would like the language to say “co-responders” rather than “responders”. Ms. Yamamoto, also a paramedic, noted that pre-hospital medicine is a changing and growing specialty. She also noted the cost and education required for the specialty. She read her written testimony into the record. Commissioner Chang asked if there had been any recent developments with regard to the concept of merging EMS with the Fire Department. Ms. Yamamoto was not aware of any specific information and referred questions to Dr. Char. Dr. Char reported that they are exploring the issue. Commissioner Lendio asked to clarify whether their only problem with the proposal was to add “co-responder” rather than “responder”. Ms. Greenwood replied that that was the case.

Fire Chief Leonardi testified in support. Chief Leonardi noted that this proposal was presented to the last Charter Commission but that was not considered at that time due to time constraints. He noted that the proposal is not intended to take over any other departments, but merely to more

accurately reflect the current role of the department. Chair Takaki asked if Chief Leonardi would have any problems with changing the language to “co-responders”. Chief Leonardi introduced Chief designee Silva and Deputy designee Tomita. Chief designee Silva stated that they would not have a problem with the “co-responder” language. Commissioner Coffee asked whether, in a perfect world, EMS rather than Fire should be the first responders to a medical emergency. Chief Leonardi responded that would be ideal, however, resource and financial realities prevent that from happening, and that currently EMS asks Fire to respond to many calls. Commissioner Kawashima asked Chief Leonardi about the concern that this might affect EMS’ ability to get grant money. Chief Leonardi responded that he did not think so, as currently the Fire Department seeks and obtains a significant amount of grant money related to its emergency response role. Commissioner Tom noted that it is important that the charter language accurately reflect the roles of the various departments, and that these types of proposals should be carefully considered even if the overall process may be cumbersome. Commissioner Myers agreed but reiterated his concerns that too many proposals may be difficult for the voting public.

Commissioner Chang urged caution with regard to further consideration of this proposal, especially any impact on ability of departments to obtain grants. Commissioner Tom responded that another way of looking at it could be that if the state sees that there are two entities responding to emergencies, maybe both would be able to obtain state funds. Commissioner Chang noted that statutorily the state is obligated to fund EMS but not the Fire Department.

5. **PROPOSAL 45** - Board of Water Supply; Amend qualifications of Board Members.

There was no public testimony.

6. **PROPOSAL 49** - Office of Council Services; To authorize the attorneys in the Office of Council Services to serve as legal advisers and legal representatives of the City Council along with the Department of Corporation Counsel.

The following individuals testified:

1. William Woods (Support)
2. Donovan Dela Cruz, Council Chair, Honolulu City Council (Support)

Written testimony:

1. Carrie Okinaga, Director, Department of Corporation Counsel
2. Donovan Dela Cruz, Council Chair, Honolulu City Council (Support)

William Woods testified in support. Mr. Woods urged the Commission to look at the issue of possible conflicts of interest and waste of resources.

Council Chair Dela Cruz testified in support. He made two points. First the proposal is intended to protect the conversations that Councilmembers has with OCS. Second the proposal is to clarify that OCS is allowed to meet with the Council in Executive Session. He also noted that they are working with Corporation Counsel to straighten out any concerns over the language of the proposal. Commissioner Lendio asked Council Chair Dela Cruz to confirm that the intent is

to have the attorney-client privilege attach to communications between OCS and the Council; Council Chair Dela Cruz confirmed this.

7. **PROPOSAL 56** - Fire Chief; Establish a 5-year term of office for the Fire Chief.

The following individuals testified:

1. Jacob Ng – Vice Chairman, Honolulu Fire Commission (Oppose)

Written testimony:

1. William “Buzzy” Hong, Chairman, Honolulu Fire Commission (Oppose)

Mr. Jacob Ng testified on behalf of the Fire Commission in opposition. He noted that there are many continuing projects that could run past the proposed term limit. He also noted that the proposal contradicts the current appointment of the new Fire Chief. Commissioner Lendio asked whether the Fire Commission has ever considered a process similar to that of the Police Commission. Mr. Ng responded that he did not think that had been considered. Commissioner Lendio asked whether the Fire Commission would be amenable to such a change. Mr. Ng replied that that might be acceptable but that the current proposal language does not provide for a renewal procedure. Commissioner Tom asked whether the Fire Chief currently goes through an annual review process and whether the Chief could be removed if he/she does not pass the review process. Mr. Ng responded affirmatively. Chair Takaki asked what the terms of the Fire Commissioners are. Mr. Ng responded five years.

8. **PROPOSAL 63** - Department of Transportation Services; Revise the Powers, Duties and Functions of the Director; promote a pedestrian and bicycle friendly city.

The following individuals testified:

1. Scott Snider, Hawaii Bicycling League (Support)
2. A. Eva Uran (Support)
3. Randy Ching (Support)
4. Chad Taniguchi (Support)
5. Shannon Wood (Support)
6. Hal Barnes, Office of the Mayor

Written testimony:

1. David Suzuki (Support)
2. Hawaii Bicycling League (Support)
3. Scott Snider (Support)
4. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)

Mr. Snider testified on behalf of the Hawaii Bicycling League in support. He read the League’s written testimony into the record. Commissioner Lendio asked whether the state’s responsibility is in the state statutes rather than the state constitution and therefore whether this proposal should be addressed more appropriately by ordinance rather than charter amendment. Mr. Snider stated that he did not know the answer to that question. Commissioner Mikulina followed up by

asking, with all the feedback, why there is no implemented plan. Mr. Snider noted that there was a bicycle coordinator for many years, but did not have an answer for the question, but that the Department of Transportation Services might have an answer. He noted that good things have happened, but that now is the time to think about alternative modes of transportation.

A. Eva Uran testified in support. It is about time to look at these issues and she strongly urged establishment of a position of bicycle coordinator. She went through a list of prioritized bike paths. She believes now is the time to make the City bike-friendly when there are the funds and means to do so.

Randy Ching echoed the sentiments of the Hawaii Bicycling League. He wants Honolulu become more bicycle friendly.

Chad Taniguchi also testified in support. He bike commutes daily, and although he tries to be safe, he can't do it alone. The City and state have to take the lead; other cities have done so. The charter is for setting vision and policy, so he felt this would be an appropriate way to address the problem. Commissioner Mikulina asked if Mr. Taniguchi had seen the proposal language that specifies that the Director of Transportation Services shall plan operate and maintain transportation, including transit, and whether he felt it was worthy of specification to include bikeways; Mr. Taniguchi replied affirmatively.

Shannon Wood testified in support and that it was a very important issue to her. She gave as an example her experiences with the speed limits around Keolu Drive. She asked that the Commission look at this issue closely because we need to continue to make our city much safer.

Hal Barnes, Assistant to the Mayor, explained that representatives from DTS were not represent because they were busy attending the mass transit scoping meeting. The City's position in general is that this as well as several other issues do not merit inclusion in the Charter, which is the City's Constitution. He noted that the City does have a bikeway find and is highly supportive of bike pathway type projects.

9. [PROPOSAL 70](#) - Board of Water Supply; Remove State Transportation Director from automatic membership.

The following individuals testified:

1. William Woods (Oppose)

William Woods testified that he is supportive of keeping the State Department of Transportation on the Board. It goes toward the public policy of coordination of Water Supply with other entities that impact capital improvement.

Commissioner Mikulina wanted to let the other Commissioners know why he introduced this particular amendment. He wanted to look at the membership and it seemed like an anomaly that the Department of Transportation Director was a member, he thought that it did stem briefly from coordinating. But in his experience they've set fairly broad CIP projects and policy then

carrying out the operations of which street they're going to tear up. There is a process that solicits comments and input from outside agencies and others. With more representation we have from the public, it would address some of the issues that Oahu is going to face when it comes to water in the future, and might be more productive than having simply as someone whose specialty should be transportation issues serving on that board.

Commissioner Chang requested that staff approach Eddie Hirata and ask if he would come in on this proposal, as he was the director of the Board of Water Supply, he was the Director of the State Transportation, he sat on the Charter Commission at one point. He might have some perspective that might be helpful to understand this issue.

Commissioner Lendio stated that she would like to hear from the Board of Water Supply. But being a recent former member of the Board of Water Supply, she found it very valuable to have the Director of State Transportation on the Board in the coordination of the CIP projects especially those that were long term and planned for many years. So while she is not in favor of moving this on, she will probably vote to move it on because she would like to hear from the other departments.

Commissioner Myers stated that if the Commission is going to seek additional information, he'd like to see if the position with the State Department of Transportation could be handled as a liaison rather than taking a voting spot on the board.

10. [PROPOSAL 71](#) - Department of Environmental Services; Require the Director to develop and administer a curbside recycling program.

The following individuals testified:

1. Shannon Wood, Windward Ahupua`a Alliance (Support)
2. Eric Takamura, Director, Department of Environmental Services (Oppose)
3. William Woods (Support)
4. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)

Written testimony:

1. Shannon Wood, Interim President, Windward Ahupua`a Alliance (Support)
2. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)

Shannon Wood testified and referred to her written testimony.

Eric Takamura noted that he knew that this topic is kind of emotional, but that you have to look at the practical standpoint. They don't only have to worry about recycling, they have to worry about many other issues and how to keep costs in line. They cannot keep raising property taxes to take care of everything. He noted that they do recycle currently, and that they are expanding bulky item pick up, which is a form of recycling. Based on the Mililani pilot program, the recommendation was to expand green waste collection. They also do certain other things in terms of recycling not at the curbside, like recycling glass, construction materials which are recycled back into the community. Also, the biggest thing that nobody understands is that when

the City picks up your waste twice a week, it's a form of recycling; burning waste to generate electricity. And, the other thing they are doing is educating the public about what can be done as homeowners to decrease the amount of waste generated.

Commissioner Mikulina asked Mr. Takamura to confirm that he said right now that the City has some curbside recycling program going on with green waste, and referred to it as a curbside recycling program. Mr. Takamura replied, yes, they go around the communities twice a month. Commissioner Mikulina noted then that this amendment is actually saying "develop, administer a curbside recycling program" which sounds like they are already doing. Mr. Takamura said yes, which is why if the Commission starts getting into their program, it might get too specific and it might be a cost factor on how they could implement it.

Commissioner Mikulina asked whether Mr. Takamura had any objections to the language as it stands, to "develop and administer curbside recycling." Mr. Takamura replied that he did not think that language was needed because they already are doing it; that it may create more confusion; and that there are a lot more bigger issues to put on the ballot than just changing the language of a Director's responsibility when it's already there.

Commissioner Pacopac asked whether the problems could be resolved by Ordinance or at a different level. Mr. Takamura agreed, and suggested ordinance or resolution. Commissioner Pacopac noted that there was already a program in place.

Commissioner Coffee asked whether the current program includes cans and bottles and plastic. Although the Department would say, "We already do that," it doesn't include cans and bottles and plastics. Mr. Takamura noted that if someone chose not to go collect their redemption amount under the State's HI-5 program, it would still be recycled because it is combustible and it can generate electricity, so they will burn it.

Commissioner Coffee asked if the common perception now in the department was that the voluntary recycling program, with money refund, potentially kills the prospects of curbside recycling. Mr. Takamura replied no, because they don't know what happens to the waste stream in the future. It is a matter of trying to work with a finite monetary resource that we have and trying to maximize its effectiveness in terms of reducing what we ultimately landfill.

Commissioner Coffee asked if Mr. Takamura had a ballpark figure of what percentage of total recyclable materials are being recycled today including green waste and white pick ups. Mr. Takamura responded that including H-Power it's 1.1M tons per year out of 1.6M tons. He noted that a lot of municipalities that a lot of people say are successful don't have an H-Power. Because the market for recycling newspaper, plastics, glass is not here on the island, we need to ship it to the mainland.

Commissioner Hirano asked if Mr. Takamura was aware of the Council bills that are supposed to establish an island-wide curbside recycling program. Mr. Takamura was aware of the bills. Commissioner Hirano asked what his thoughts were on that. Mr. Takamura noted that they go back and forth because they think they are doing certain types of curbside recycling, green waste,

bulky items which is scrap metal. They collect trash twice a week and they burn it at H-Power so they think they already have an island-wide curbside recycling program.

Commissioner Mikulina wanted to make sure the Commission had the accurate numbers and asked whether Mr. Takamura just said it might cost us upwards of \$10M to collect those 20,000 tons that you calculate annually. Mr. Takamura said yes. Commissioner Mikulina said that he assumed that the numbers comes from an RFP (Request for Proposal) for bidding for curbside, and asked whether that figure, \$10M, came back from one of the bidders. Mr. Takamura said no, those bids were for processing and not for collection.

Commissioner Mikulina asked about the numbers of 1.1M tons out of the 1.6M, and Mr. Takamura calling H-Power as recycling. He asked if that really recognized around the country, for example, does the U.S. E.P.A. treat burning waste as recycling. Mr. Takamura replied that the reason why he thinks E.P.A. doesn't consider it recycling is because nobody does it. It's a very expensive venture that they would only try to promote recycling activities that are affordable. In the 1980's when Honolulu chose H-Power, they understood that a lot of the residents would not segregate their waste. They find it a lot more convenient and it is reported that 75% of the population will not do it voluntarily. So the City decided back then that because we don't have recycling market here, we would have to ship it all to the mainland. But if we burn our combustibles, that would be a better form of recycling and we would reduce the amount to our landfill.

Commissioner Mikulina asked when the permit for the landfill expires. Mr. Takamura replied 2008.

Commissioner Sullivan asked if staff could get copies of the bills and resolutions that were cited in Council Chair Donovan's testimony, along with the legislative status of those and testimony that has been submitted.

William Woods wanted to comment on the issue of what merits being on the ballot, versus ordinance, versus some other kind of action. He hoped that the Commission was going to review issues that are institutionalized policy that they believe our county supports. He noted that what we've seen in the last few years regarding curbside recycling is that the public really wants it. He believes there is merit for having this on the ballot, to show this is something we believe as an institution should be a part of government operations to help coordinate such activities.

Council Chair Dela Cruz testified that he had submitted testimony on all those different proposals. With regard to this proposal, he was not saying the Council is for or against recycling but feels that this is under the purview of the legislative branch; it would be inappropriate for it to be on the ballot, where you can't explain the budgetary aspects, the impacts of the other departments, all the different impacts. Those discussions need to be held in the legislative branch.

Commissioner Mikulina testified on behalf of the proposal, which he introduced. What prompted his amendment was how we've been responding to solid waste issues, planning for

new landfill, and dealing with solid waste. In the meantime, the Mainland rocketed ahead of us as far as dealing with solid waste. Where we have over 10,000 municipalities to the mainland that have curbside collection systems. Recently it was in the news in New York when Bloomberg became Mayor and immediately wanted to cut costs. One of the first things he did was can the curbside program in New York. It lasted 3 months before his Economic Advisor said we could no longer afford not to have curbside in New York City, so they quickly re-instituted it. Honolulu is different. Different in that the City pays one of the -- in fact the highest -- tipping fees in the nation, upwards of 80-90 bucks per ton for solid waste here. And the city has a landfill with the permit expiring in 2008. The city just seems to be not moving forward on this at all. So sure the Council is moving a little bit on Ordinance. They did that 2 years ago too, where they allocated funds for the program, nothing happened. It's time to elevate it to the Charter level and make a statement that refuse doesn't just mean collecting garbage and burning it but also means developing a recycling program. And Honolulu wouldn't be the first to do so, in fact the Maui Charter has a similar sort of line in there that the Director of Public Works over there and the Departmental Management should implement recycling programs. Commissioner Mikulina would like to see something similar here for Honolulu.

Commissioner Myers added that he would like to support something in the way of recycling because he had a little trouble with the definition that was given on recycling. Recycling is to take a product and remanufacturing it into another product and he was not sure that burning it is his definition of recycling. He was concerned about public participation, noting that when they had curbside recycling test in Kailua, he was about the lone person on his street putting out little bags with the bottles and the cans and everything in it.

11. [PROPOSAL 95](#) - Information Technology; Amend various sections to clarify city website responsibilities, ensure updates to City websites, post public notices online.

The following individuals testified:

1. Denise DeCosta, City Clerk, Office of the City Clerk (Oppose)
2. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)
3. Keith Rollman, Special Adviser, Department of Information Technology
4. William Woods (Support)

Written testimony:

1. Denise DeCosta, City Clerk, Office of the City Clerk (Oppose)
2. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)

City Clerk Denise DeCosta testified, and was with Clarice Kumura whose staff does a lot of the posting of the City Council notices and agenda, in case there were any questions. They submitted the written testimony and basically their point is that they do most of this already. She did not think that this charter amendment is needed. There is one thing that if the Commission moved it forward our concern about the reference to public notices, having their office post all public notices. Because right now they only post the Council public notices and there are many public notices throughout the City and the agencies are now responsible for that so to shift it to their office would be a large load. They are the legislative branch, and she did not know if it's

appropriate for them to be policing the City Administrative branch on matters like public notices.

Chair Takaki asked to confirm whether one of her concerns was regarding making all city postings. Ms. DeCosta said yes, and that they feel that, that would be something the Administrative Branch should be responsible for and they post our own, as the legislative branch.

Commissioner Lendio asked whether the Clerk's office had ever been sued for not posting something or involved in a lawsuit with regards to not posting something. Ms. DeCosta said that she had only been in the position for about 2 years, but did not know of any.

Commissioner Mikulina asked for Ms. DeCosta's recommendations on language to formalize what her office currently does. Ms. DeCosta replied that they would have to look at the language, perhaps the term "electronic form" might be appropriate. However, that might be part of DIT's function. Commissioner Mikulina asked if that meant that there would be a better agency to handle such tasks. Ms. DeCosta replied that that would probably be so for citywide matters, although her office does support that function and has been doing some of it administratively on their own.

Chair Takaki suggested a possible revision to remove the language regarding requiring the City Clerk to update the City's website. Ms. DeCosta agreed that that sentence would be problematic because that's a DIT responsibility.

Commissioner Pacopac noted that he believed that the proposal kind of complicates things by putting the Legislative and the Administration together, and he not think that the legislative branch could be forced the Administration matters. Commissioner Hirano commented that she thought the Commission should be very clear that it doesn't want to be delving into operational issues of any department or to the City operation, keep in mind that it should be looking at broad policies.

Council Chair Dela Cruz testified that he would stand on his written testimony. He noted that Neighborhood Board Commission has its own website. He did not want to see the Administrative Branch held accountable for something that the Council should be doing or vice versa.

Mr. Keith Rollman testified that although he agreed with the intent, his concern was that if you start putting specifics regarding methodology and technology into the Charter, you're going to have to go back in 5 years and pull it out again because the best practices today will be totally different in 5 years. Perhaps it should be couched in terms of the best practices available, the most efficient way as possible to do this to get the information out. Commissioner Mikulina noted that a similar discussion was probably had before the last change to the charter, and read from the provision, noting that it was specifically tied to the newspaper. Mr. Rollman reiterated that he back up to the terminology to best method available or most efficient method available.

Commissioner Myers commented that perhaps the next RFP that goes out for the publishing notices in the newspaper could include them being required to upload them to a page that the city

hosts so that everything that gets turned into publishing also automatically goes on a public access city website. Mr. Rollman added that he thought that what was going to happen is the document sharing environment is going to be so simple and so pervasive, all of this will be able to tell you what's available on the database for the public to look at and their search engines will find it, compile it and organize it the way they want to.

Commissioner Lendio asked whether the newspapers already post the public notices on their computer websites. Mr. Rollman stated that that one of the primary goals was efficiency, making the document available to the public as soon as possible. Conventional publishing takes time and then it separates the public from that information by however long it takes to print that paper and distribute it. As soon as that information is available to the public, they should be able to find it with a search engine and a customized browser. So the whole terminology of someone being tasked with administering a website, there may not be that role anymore. It may change.

William Woods testified and expressed concerns with the current system, including a number of meetings where notices for the Neighborhood Commission not posted, they were inaccurate, they were the wrong date, they were posted all, they're changed after the deadline. He really loved the statement that's made here, regarding the best possible practice. He encouraged the Commission to do something in terms of a policy regarding public notices.

Commissioner Mikulina asked if Mr. Woods found it true that notices that go to the newspaper are therefore published on the newspapers website. Mr. Woods replied that he did not find it true.

12. [PROPOSAL 98](#) - City Buildings and Department of Design and Construction; Require City Council to adopt green building standards for city buildings, revise Department of Design and Construction duties to comply with green building standards.

The following individuals testified:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)
2. William Woods

Written testimony:

1. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)

Council Chair Dela Cruz stood on his written testimony and noted that the Council currently has a couple of bills currently that basically address the same issue.

William Woods noted that he thought that this is going to be one of those issues for what's an Ordinance versus what's a Charter amendment. He thought that it has a right to be in either place but if you want the Council and the Administration to work on it you need to put it in the Charter. Otherwise it's not a public demand or requirement.

Commissioner Mikulina commented that the means for this amendment is that this is an opportunity to save some money and help the environment by the city doing it's part by

implementing some standard. He left it the language open to accommodate changes in standards and technology over time. The second part specifies that they have to construct or renovate buildings that meet some international recognized standard. He thought it would serve the public and the environment.

Chair Takaki asked for a motion to take a recess. Commissioner Lendio motioned for a 10-minute recess. Commissioner Pacopac seconded that motion. Commission took a 10-minute recess at 6:23 p.m.

Chair Takaki reconvened the meeting at 6:40 p.m. and returned to Agenda Item 4A - Discussion and Action – Initial Discussion and Vote on Proposal Items. Following the recess, Chair Takaki noted for the record that Commissioner Tom had left the meeting, and that Commissioner Meder arrived at about 5:30 p.m. The Chair also noted that additional written testimony from Dr. Char from EMS and Ralph Goto, Division Administrator for EMS was distributed.

Commissioner Lendio asked Commissioner Kawashima of the Rules Committee whether or not the Commission could move the proposal forward as they are, and then following public hearing on each proposal, then deal with amending the particular proposal that survived that process. Commissioner Kawashima replied that that would be allowable under the current rules.

Chair Takaki asked to clarify that if any of the Commissioners would like to see the proposal move forward if there was an amendment, the Commission would not have to make that amendment tonight, and could wait until after the public hearing. Commissioner Kawashima replied affirmatively.

Commissioner Lendio had one additional comment. She wanted to advocate that procedure with regard to proceeding forward simply because there may be issues during the public hearing which may require further amendment of the particular proposals at that time and the Commission might as well do it at one time instead of piecemeal as it will be prolonging the process.

Commissioner Hirano noted that the converse would be also be true if the Commission feels that certain proposed amendments should be dealt with by ordinance, it can do that at the time after public hearing, and asked if Chair Takaki was advocating that all of the proposed amendments go forward? Chair Takaki responded that he was not advocating, that just simply stating it. He also reminded that there is still the supermajority rule in place where a proposal that does not pass today or a proposal that is not in the current list of 99, maybe brought forward to the Commission by supermajority vote 1 month prior to the first public hearing.

Commissioner Myers asked regarding how the public hearings are going to work. There are several dates and several locations, so would everything put forward going to appear at every location? Chair Takaki responded that that was correct, at each of the three locations. Obviously the Commission is here to fulfill its mission to look at the City charter and improve it. In order to do that properly, they need to make sure that they're doing this in a manageable way that

voters will be able to understand as well.

ACTION:

A. RELATING TO DEPARTMENTS AND DIRECTORS

1. **PROPOSAL 27** – Liquor Commission and Civil Service; Exempt Liquor Control Administrator and Deputy Administrator from civil service.

ACTION – Proposal 27 to move on for further consideration – motion passed. Moved by Commissioner Lendio, Seconded by Commissioner Mikulina. Discussion followed:

Commissioner Lendio expressed a little bit of skepticism about interfering in to the Liquor Commission's business, but stated that she would like to review the audit findings by the City Auditor in pushing this proposal forward for consideration by the voters.

Commissioner Chang stated that he would also like to see the audit because to change it from a Civil service position to one that is subject to the whims of the Commission is a big move. He would also like to get the data, and understand how the original Charter was set up as to why they put in Civil service. Because there is an implied protection from the influence of political consideration and that may be a serious issue that this particular circumstances that lead to the sponsor to introducing this measure. It may be unique in and of itself. But in the overall frame of the way government should be run, he would be interested in knowing what the audit said and secondly if there's any history as to the reason why this position was put in civil service. This might give us some insight to the thinking back then.

Commissioner Myers had a procedural question. If that additional information were to come back and it were to change people's mind about moving it forward is there an opportunity that we can bring it up on another agenda and decide not to move it forward? Chair Takaki replied that at that point, that would occur after the public hearing.

Commissioner Pacopac asked if the Commission is seeking out more information and information can be given, is there a way we can put a proposal on hold and not vote on it? So that we don't have to go through the whole public hearing process and we got the information and then commissioners don't want to move it forward. Is there a process that the Commissioners can't just vote yes or no, but put it on hold until the information come back since there is another meeting coming up?

Chair Takaki asked the Rules Committee chair to comment on that. Commissioner Kawashima replied that he would have to take a look at that, but off the top of his head would say probably not but not as the rules as it's currently written. Commissioner Mikulina commented that he didn't think the rules precluded the commission from tabling something.

Executive Administrator Narikiyo commented that he did not believe there's anything precluding tabling. Maybe it would be a motion to defer the vote. He believed it that could be done. Of course when the Commission votes on it at the next meeting they would have to accept testimony on it as well.

Commissioner Lendio added that the intent of her motion was to move this forward to public hearing, she would like to look at the audit findings and the information Commissioner Chang is asking for. But the intent in her motion was to move this for further public hearing.

A discussion followed as to whether there was a motion to amend or to table on the floor, and it was concluded that no other motion had been made.

AYES: TAKAKI, CHANG, GRAU, HIRANO, KAWASHIMA, LENDIO,
MEDER, MIKULINA, MYERS, PACOPAC, SULLIVAN. - 11
NOES: COFFEE - 1
EXCUSED: TOM - 1

2. **PROPOSAL 33** - Department of Emergency Services; Revise the Powers, Duties and Functions of the Director and the Department.

ACTION – Proposal 33 to move on for further consideration – motion passed. Moved by Commissioner Myers, seconded by Commissioner Mikulina. There was no discussion.

AYES: CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, PACOPAC, SULLIVAN - 10
NOES: TAKAKI, HIRANO - 2
EXCUSED: TOM - 1

3. **PROPOSAL 35** - Department of Information Technology; Revise the Powers, Duties and Functions of the Director.

ACTION – Proposal 35 to move on for further consideration – motion passed. Moved by Commissioner Pacopac, seconded by Commissioner Chang. Discussion followed.

Commissioner Chang commented he thought he heard the Administration recommending that the term Executive and Legislative branch was redundant and not necessary, and asked whether a motion could be made to delete that phrase but in support of the proposal? Chair Takaki replied that he thought that they had stated that this was allowed however, they would move forward with the proposal for today and make the amendment after the public hearing.

No further discussion.

AYES: CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO,

MEDER, MIKULINA, MYERS, PACOPAC, SULLIVAN - 11
NOES: TAKAKI - 1
EXCUSED: TOM – 1

4. **PROPOSAL 36** - Fire Chief; Revise the Powers, Duties and Functions of the Fire Chief and the Fire Department.

ACTION – Proposal 36 to move on for further consideration – motion passed. Moved by Commissioner Mikulina, seconded by Commissioner Pacopac. Discussion followed.

Commissioner Mikulina commented that he would like to see later the amendment that was discussed about “co-respondent.” Chair Takaki noted that this could be done after the public hearing. Commissioner Chang asked if, in moving the proposal forward, the Commission could request the Department to comment on the question he had raised whether or not this would diminish the City’s effort in getting the state to assume its responsibility. He would like to hear from that department as to what they think about that comment, because the Legislature very quickly will say they got all their needs met so why do they need more money in EMS, and therefore they can just advocate the responsibility by following the statutory requirements of the State.

AYES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, LENDIO, MEDER,
MIKULINA, MYERS, PACOPAC, SULLIVAN - 11
NOES: KAWASHIMA - 1
EXCUSED: TOM – 1

5. **PROPOSAL 45** - Board of Water Supply; Amend qualifications of Board Members.

ACTION – FIRST MOTION: Reject Proposal 45 from passing first reading and forward to public hearing – motion failed. Moved by Commissioner Lendio, seconded by Commissioner Pacopac. Discussion followed.

Commissioner Lendio commented that in reviewing the proposal she found the language to be vague and ambiguous both legally and just under common sense. She would have hoped that someone would be here to testify and advocate the reasoning behind such a proposal. In addition, being a former member of the Board of Water Supply she did not feel it’s necessary to have the specific requirements reiterated in the proposal as a Charter amendment, and therefore she made the motion.

Commissioner Mikulina noted that no one was present to testify, on what was by far our thickest amendment, and that someone seemed to do a lot of homework on the reason for submitting it. It looks like this merits something that occurred recently at the State level with efficient water resource management which added a seat for in fact the exact same language here referring to Section 174c-101. In his experience the Board of Water Supply is playing a role of growing

importance, given our limited water supply as well as the impact to the Native Hawaiian rights and the environment, and places have been locked up with various litigation over the years. And it was his concern that there be a voice on there that does represent that Native Hawaiian experience and traditional riparian water usage. So he will be voting against the current motion. He thought that the Commission would serve the public well to have at least one seat designated for this type of person. Looking at the current make up of the Board of Water Supply, frequently they're political appointees, they might not have the experience to make the best decisions. The Commission can tweak this later, but he thought it deserves to move forward.

Commissioner Pacopac stated that he did not think a cultural person should be on a board to make a decision. He did not see how to recognize one cultural group and compare to any other one. So he did not think it should be in the charter.

Commissioner Grau asked, leaving aside the traditional Hawaiian riparian and appurtenant water usage, is there a disadvantage to requiring people experienced in water resource management on the board? Chair Takaki noted that unfortunately there is no one here to testify on that question. Commissioner Grau commented that if the commission were to amend proposals later in the process, they could amend this later.

Commissioner Sullivan stated that she would be voting against the motion not necessarily because she supported this language, but because she supports giving whoever submitted this the opportunity to testify at the public hearing, and because someone did take the time to submit it.

AYES: CHANG, HIRANO, LENDIO, MYERS, PACOPAC - 5
NOES: TAKAKI, COFFEE, GRAU, KAWASHIMA, MEDER, MIKULINA,
SULLIVAN - 7
EXCUSED: TOM - 1

ACTION – SECOND MOTION: Proposal 45 to move on for further consideration – motion passed. Moved by Commissioner Mikulina, seconded by Commissioner Grau. No further discussion.

AYES: TAKAKI, COFFEE, GRAU, KAWASHIMA, MEDER, MIKULINA,
MYERS, SULLIVAN - 8
NOES: CHANG, HIRANO, LENDIO, PACOPAC - 4
EXCUSED: TOM – 1

6. **PROPOSAL 49** - Office of Council Services; To authorize the attorneys in the Office of Council Services to serve as legal advisers and legal representatives of the City Council along with the Department of Corporation Counsel.

ACTION – Proposal 49 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Myers. Discussion followed.

Chair Takaki commented that he was worried about whether there is conflict by having two representatives of the City Council, however he will be voting in favor also of moving this forward.

AYES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA,
LENDIO, MEDER, MIKULINA, MYERS, PACOPAC, SULLIVAN - 12
NOES: NONE
EXCUSED: TOM – 1

7. **PROPOSAL 56** - Fire Chief; Establish a 5-year term of office for the Fire Chief.

ACTION – Proposal 56 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Sullivan. Discussion followed.

Commissioner Lendio commented that being a member of the former Charter Commission, when they listened to testimony with regards to the Police Chief and the term limits, she was in favor of that moving forward to the voters as well. With amended language as they proceed through the public hearing stage, she thought that there should be a mirror image of that provision with regards to the Police Chief applied to the Fire Chief. She thinks that think term limits are good, and review processes are good and therefore that is the basis of her motion.

Commissioner Coffee had a question -- would that mean pure term limits rather than the review opportunity after the five years? Commissioner Lendio responded that hopefully after the public hearing process the Commission would be able to amend, and it is her intent to amend and mirror it to the Police Chief language in the existing Charter.

AYES: TAKAKI, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO,
MEDER, MIKULINA, MYERS, SULLIVAN - 10
NOES: CHANG, PACOPAC - 2
EXCUSED: TOM – 1

8. **PROPOSAL 63** - Department of Transportation Services; Revise the Powers, Duties and Functions of the Director; promote a pedestrian and bicycle friendly city.

ACTION – Proposal 63 to move on for further consideration – motion failed. Moved by Commissioner Mikulina, seconded by Commissioner Coffee. Discussion followed.

Commissioner Coffee commented that his feelings about this one, and he does support the recycling issue, are that the Charter is a sense our City Constitution and the Constitution of the Charter embodies the philosophical statement of the communities values and priorities. At the present it's important they make the statement in the Charter that they favor those and that everything should be done that's possible to move them forward.

Commissioner Pacopac did not think this would belong in the Charter; it's looking at CIP projects, looking at funding. They need to look at how the process works to get the bicycle path and that's all done with DTS and Planning. He thought that the policy statement creates problems for the departments.

Commissioner Grau stated that he thought that this should be moved forward for public hearing. He believes that the core of this is giving the highest priority to impacts on pedestrians, public transits, bicycling is one element of it. He would also say there are other solutions that can be brought into through amendment. There are bike lanes, bikeway, bike paths and so he thought the sophistication of this can be perhaps augmented but that it's absolutely important that the Charter say something toward giving priority to pedestrians and public transit.

Commissioner Chang spoke against the motion. What's troubling for him is the term giving the highest priority and it shall be the priority. That troubles him because that can be too restrictive. He thought that we need to give the City Council and the Administration the flexibility to decide through the political process on to how those resources should be allocated.

Commissioner Mikulina stated that he would be supporting the amendment for the reasons that Commissioner Coffee and Commissioner Grau articulated. There are 2 parts in this amendment. One says giving high priority to impact pedestrian, bus and the bicycle, which is important in light of recent accidents involving pedestrians. Honolulu has one of the highest rates of fatalities from pedestrians and bicyclists. It makes sense to elevate this to give it highest priority the impact on pedestrian, public transit, bicyclists. Hawaii prides ourselves as being the health state yet we have poor facilities and dangerous roads. The second part is simply a statement similar to what Commissioner Coffee said articulating that it shall be the priority of the Department of Transportation Services to make Honolulu pedestrian and bicycle friendly city. It can't get much more to put us on these maps. And just as the Charter currently says particularly including transit in its direction to the Department of Transportation Services, it incorporates all sorts of planning, might as well add bikeway too because it's not just cars and transit but it's also alternative forms of transportation.

Commissioner Hirano stated that she admired everyone for what they are saying about the bikeways and related matters. But she thought that this would be better handled through ordinance, it is an operational issue, so will be voting against this issue.

Commissioner Coffee stated that this is an opportunity to set the highest possible standards, and if they don't have the highest standards, there won't be an incentive to rise to them.

AYES: COFFEE, GRAU, KAWASHIMA, MEDER, MIKULINA, SULLIVAN -
6
NOES: TAKAKI, CHANG, HIRANO, LENDIO, MYERS, PACOPAC - 6
EXCUSED: TOM - 1

9. **PROPOSAL 70** - Board of Water Supply; Remove State Transportation Director from automatic membership.

ACTION – Proposal 70 to move on for further consideration – motion failed. Moved by Commissioner Mikulina, seconded by Commissioner Lendio. No discussion.

AYES: COFFEE, KAWASHIMA, MIKULINA, MYERS, SULLIVAN - 5
NOES: TAKAKI, CHANG, GRAU, HIRANO, LENDIO, MEDER, PACOPAC -
7
EXCUSED: TOM – 1

10. **PROPOSAL 71** - Department of Environmental Services; Require the Director to develop and administer a curbside recycling program.

ACTION – Proposal 71 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Coffee. Discussion followed.

Commissioner Grau stated he believes that they should bear the real cost of our lifestyle and not pass it on to the next generation. Commissioner Lendio commented that she sees the proposal as another function of the department and feels the voters should consider as to whether their government should institute the program.

Chair Takaki commented that if the measure moves forward that he would like staff to research other cities that have similar characteristics that have a requirement that they administer a curbside recycling program.

Commissioner Pacopac cautioned the Commissioners about the cost that will be involved and money that will be needed to do the program.

Commissioner Hirano commented that she's not against recycling, but feels it should be handled through ordinance and not through the Charter.

AYES: AKAKI, COFFEE, GRAU, KAWASHIMA, LENDIO, MEDER,
MIKULINA, SULLIVAN - 8
NOES: CHANG, HIRANO, MYERS, PACOPAC - 4
EXCUSED: TOM – 1

11. **PROPOSAL 95** - Information Technology; Amend various sections to clarify city website responsibilities, ensure updates to City websites, post public notices online.

ACTION – FIRST MOTION: Proposal 95 to move on for further consideration – motion.

Moved by Commissioner Mikulina, seconded by Commissioner Grau. Discussion followed.

Commissioner Mikulina stated that looking at the current charter and would like to see the current language revised to reflect current technology. Commissioner Myers will be voting against the measure. Commissioner Pacopac agrees with Commissioner Myers and will also be voting against the measure. Commissioner Meder asked for clarification of the process of how proposals can be edited. Commissioner Lendio clarified the procedure of postponing a proposal but it's up to the discretion of the Chair whether to consider the motion.

Chair Takaki's preference is to vote to move forward or not, and reiterated the supermajority availability to bring forward again. Amendments to the proposals passed will be done after the public hearings should they be moved forward now. However, he stated that if the proposal has merit, to move it forward to be amended at a later time.

Commissioner Myers offered to help Commissioner Mikulina redraft and bring up through the supermajority process. Commissioner Mikulina referred to the Charter Commission Mission Statement, and offered to withdraw his motion and revive through the supermajority process with the help of Commissioner Myers. Commissioner Grau asked if Chair Takaki would allow a motion to table or postpone, if Commissioner Myers and Commissioner Mikulina could come up with different language and vote at a later date, would that solve the issue?

Commissioner Myers responded that he would rather bring forward a new proposal. Chair Takaki would rather vote the measure, and if Commissioner Mikulina would bring a supermajority forward, the Commission can look at it later. Commissioner Kawashima clarified that if the measure is postponed and edited and changes are made to the language, and it is related to the language, it would not need to go through the supermajority as it was handed in on time. If the measure is voted down, supermajority is the only avenue left. Commissioner Myers responded that the proposal would be considerably different and unrecognizable.

Chair Takaki, with advisement of the parliamentarian, asked Commissioner Mikulina if he would like to withdraw his motion. Commissioner Mikulina agreed to withdraw his motion. Chair Takaki asked if there needed to be a motion to table the proposal. Executive Administrator Narikiyo clarified that someone can make a motion to defer a vote to the next meeting. That could be a new motion.

ACTION - SECOND MOTION: Proposal 95 to defer and come back with a revised proposal to the next meeting in January – motion failed. Commissioner Mikulina moved, seconded by Commissioner Grau.

Chair Takaki spoke against deferring proposals to future meeting for time constraints and will be voting against the measure and asked for a third motion to vote one way or the other.

Commissioner Myers asked for clarification on proposals that don't get a motion to vote for or against, doesn't the proposal die for lack of a motion? Commissioner Lendio responded unless it is put on the next agenda by the Chair. Commissioner Lendio went on to state that the Chair has

the discretion to put it back on the agenda and the Commission needs another public hearing on it.

AYES: GRAU, MEDER, MIKULINA -3
NOES: TAKAKI, CHANG, COFFEE, HIRANO, KAWASHIMA, LENDIO,
MYERS, PACOPAC, SULLIVAN - 9
EXCUSED: TOM – 1

ACTION - THIRD MOTION: Proposal 95 to NOT move on for further consideration – motion passed. Moved by Commissioner Myers, seconded by Commissioner Pacopac. No discussion followed.

AYES: TAKAKI, CHANG, COFFEE, HIRANO, KAWASHIMA, LENDIO,
MEDER, MYERS, PACOPAC, SULLIVAN - 10
NOES: GRAU, MIKULINA - 2
EXCUSED: TOM – 1

12. PROPOSAL 98 - City Buildings and Department of Design and Construction; Require City Council to adopt green building standards for city buildings, revise Department of Design and Construction duties to comply with green building standards.

ACTION – Proposal 98 to move on for further consideration – motion passed. Moved by Commissioner Sullivan, seconded by Commissioner Lendio. Discussion followed.

Commissioner Sullivan commented if proposal goes forward, she would like to ask staff to get more information and comments from the Department of Design and Construction, Department of Planning and Permitting, and to do an inventory of laws in other jurisdiction enacted and what it is they are calling for. Commissioner Coffee asked if Commissioner Mikulina could give a brief description of green building requirements.

Commissioner Mikulina gave a short description and referred to Commissioner Meder for further clarification. Commissioner Meder replied the purpose and other similar approaches is to reduce the energy and water demand to reduce the cost. It looks at the life cycle cost and analysis shows how much it would save. Commissioner Meder replied to Commissioner Coffee that this would institute a policy that would allow the city to design building better from here forward and save the citizens money and demonstrate leadership in this area.

Commissioner Chang agreed with Commissioner Meder comments and asked if he had any comments on the LEED program in Phoenix, which was adopted by the City Council in setting the policy rather than the charter. Asked Commissioner Meder why he felt this should be in the Charter rather than the City Council who could make adjustments and greater flexibility. Commissioner Chang noted that Council Chair Dela Cruz testified that there are similar proposals before the City Council that would be greater or a similar type of program. Commissioner Meder replied that he would edit out the specific reference to LEED. He's seen

political adoption of LEED around the country because it's a recognized standard, but most of the time when adopted they don't understand the additional cost and can be quite expensive particularly the first time through. He recommends a broader statement similar to the state's Act 77, that there's commitment to reducing the demand and all building design go through lifecycle cost analysis. Commissioner Meder went on to say that he believes that it should be included in the Charter as he feels the Council would not adopt it or it would be a LEED standard.

Commissioner Mikulina gave background information on how the proposal was drafted.

Commissioner Grau feels it's important to be placed in the Charter to express the vision of the community about itself and provides a guide to the City Council and to the administration. He went on to state that we will be effectively out of petroleum in 35 years and future Charter Commissions will have to deal with a lot more profound decisions.

Commissioner Pacopac commented the proposal has been brought up many times in the legislature. He also agreed that cost is involved with new theories and needs a cost effectiveness. Commissioner Pacopac also stated that the proposal will effect the Construction industry. Commissioner Meder responded that the building industry sees benefits through building in an efficient and cost effective way, as well as in training new workers.

AYES: COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO, MEDER,
MIKULINA, MYERS, SULLIVAN - 9
NOES: TAKAKI, CHANG, PACOPAC - 3
EXCUSED: TOM - 1

TESTIMONY:

B. RELATING TO PLANNING AND ZONING

1. PROPOSAL 7 - Sustainable Community Plans and Development Plans.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Neutral)
2. Donald Bremner (Support)

Written testimony:

NONE

Donald Bremner testified in support. He feels this is a policy matter and that it concerns the charter rather than legislation because it is straightening out language in the present charter. Gave a brief history to the last Charter Commission 5 years ago, and the city development plans were revised and some of the names were changed to sustainable community plans and both terminology are existing in the charter at the moment. This charter proposal will make it uniform one way or the other by using "sustainable community plan" and making it uniform

throughout the charter. There's another small amendment in the proposal to insert the modify land use before the current charter provision "shall include map" but doesn't specify what type of maps and basic plans need a land use map.

Henry Eng, Director of the Department of Planning and Permitting, testified as neutral but stated they would have a concern if the land use map turned out to be a detailed land use map and that it should be clarified. Prior charter amendments moved away from detailed land use maps due to problematic operations of those maps.

2. **PROPOSAL 21** - Establish urban growth boundaries and agricultural protection zones on Oahu.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Support)
2. Donald Bremner (Support)

Written testimony:
NONE

Henry Eng, Director of the Department of Planning and Permitting, testified on Proposal 21 and 47 regarding the urban growth boundaries and agricultural protection zones are currently available for use, but supports the 2/3rds vote which requires a Charter Amendment.

Donald Bremner testified in support of the concept of the proposal. Mr. Bremner stated the authority that is proposed, he feels it is appropriate for the Charter and is a step above an ordinance and helpful to the department. Commissioner Mikulina referred to page 2 of Resolution 03-192, 1 (2), the wording of the proposed charter amendment, and asked Mr. Bremner if he knew how this would interface with what the state had passed and Mr. Bremner did not.

3. **PROPOSAL 47** - Establish urban growth boundaries on Oahu.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Support)
2. Gary Okino, Councilmember, Honolulu City Council (Support)

Written testimony:
1. Donovan Dela Cruz, Council Chair, Honolulu City Council (Oppose)

Councilmember Okino testified in support. Councilmember Okino described his background experience, including 33 years as a city planner and work on general and development plan revisions. He stated how urban growth boundaries is one of the key things for effective growth management in the City and County of Honolulu. He said there is very limited land and how the City needs to preserve the environment and the sustainability of the island and how the proposal is the key to containing growth. He went on to say how this proposal will preserve open space

and agriculture and it will remove development pressure from agricultural land and allow agriculture to be a lot more viable and would discourage urban sprawl. There is an estimate of about 50-year supply of residential land for development and feels we don't need to expand the boundaries as it will encourage sprawl, make infrastructure a lot more inefficient and it will cost the City a lot more to install infrastructure as well maintain and upgrade the infrastructure. Councilmember Okino gave a background history about planning in the past done by developer initiative. The last time the City changed the development plan the City said they were going to stop that process and was going to create the urban growth boundaries to make it a semi-permanent boundaries only to be changed at a certain period or time which was five years at that time. The language was revised and feels it has weakened that requirement and can be changed at any time, and is concerned about the boundaries and feels the charter should hardening the boundaries and make it more difficult to change. He went on to state that once the boundaries are established, then they can concentrate how to develop the land use configuration within those boundaries. He gave examples of areas that have successful urban growth boundaries such as Portland. Having the two-thirds requirement in the charter will make it harder to change.

Chair Takaki asked staff if there were any difference between Proposals 21 and 47 in terms of the resolution, were they the same? Nikki Love, Researcher for the Charter Commission, stated that Proposal 47 has just urban growth boundaries and Proposal 21 has both urban growth boundaries and agricultural protection zones. Councilmember Okino clarified that his comments were not for the agriculture protection zones and feel that can be protected through the growth boundaries, which will protect open space and agriculture. Chair Takaki asked Councilmember Okino for clarification evaluation process for urban growth boundaries. Councilmember Okino replied that the sustainable community plan intent was to be reviewed every 5 years.

Commissioner Sullivan asked for clarification if proposal was to establish a new section in the charter under the Department of Planning and Permitting that is similar to general plan, development plan, stated it wasn't clear and it doesn't seem appropriate to place under the requirements of the Director of Planning and Permitting. Councilmember Okino responded that he felt that he didn't have any preference as long as the 2/3 vote requirement is placed in the charter. Commissioner Sullivan then asked about the 2/3 vote requirement about being placed in the charter. Councilmember Okino replied in the affirmative and explained that they tried to pass it by ordinance a couple of years ago but was told to put it the charter because the charter is specific. Commissioner Mikulina clarified that Councilmember Okino was testifying only on the urban growth boundaries and 2/3 vote. Councilmember Okino clarified that his testimony was for the 2/3 vote and the requirements for DPP regarding urban growth boundaries and guidelines.

4. **PROPOSAL 22** - Planning Commission; Restore the position of Executive Secretary.

The following individuals testified

1. Henry Eng, Director, Department of Planning and Permitting (Support)
2. Charles Prentiss (Support)
3. Donald Bremner (Support)

Written testimony:

1. Charles Prentiss (Support)

Henry Eng, Director of the Department of Planning and Permitting, testified in support. Mr. Eng stated that there are situations where the Planning Commission and the Department have different views and then the Department is placed in a position to have to develop findings that are contrary to the Department's position. He feels the Executive Secretary would give the Planning Commission independence.

Charles Prentiss testified in support. Mr. Prentiss read his written testimony into the record. Commissioner Chang asked if Mr. Prentiss recalled the 1992 Charter Commission deleted the Executive Secretary from the charter. Mr. Prentiss replied he did not recall, but recalled that there was not much discussion and when Mayor Frank Fasi took back over from Mayor Eileen Anderson he did not want the Executive Secretary position. The Council put it in as an amendment in 1990 but it didn't pass, and they put it back in 1992 in a package with other changes. Commissioner Sullivan asked Mr. Prentiss regarding Corporation Counsel's attendance at the Planning Commissions meetings. Mr. Prentiss replied that Corporation Counsel attended all Planning Commission meetings. Commissioner Sullivan asked if Corporation Counsel could prepare the findings for the Commission because they are in attendance. Mr. Prentiss replied that when he was the Executive Secretary, it was a professional planner, and the Corporation Counsel only dealt with legal issues while the Executive Secretary prepared the findings.

Donald Bremner testified in support.

5. [PROPOSAL 32](#) - Planning Commission; Establish deadlines for Mayor and City Council to act on certain Planning Commission recommendations.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Oppose)
2. Andrew Malahoff, Staff of Councilmember Barbara Marshall (Support)
3. Donovan Dela Cruz, Council Chair, Honolulu City Council (Support)

Written testimony:

1. Henry Eng, Director, Department of Planning and Permitting (Oppose)

Henry Eng, Director of the Department of Planning and Permitting, referred to his written testimony. Commissioner Mikulina asked Mr. Eng if there has ever been an issue where it takes longer than 90 days. Mr. Eng replied in affirmative as explained in his testimony depending on the complexity and necessary research to produce an analysis. Chair Takaki asked if it the department thinks putting a number is restrictive. Mr. Eng stated it is an unnecessary restraint.

Andrew Malahoff, Staff of Councilmember Barbara Marshall, testified in support. Deadlines are necessary on proposals made by the Council moved in a timely manner. Mr. Malahoff stated that proposals have not been moved in a timely fashion that allows Council to act on proposals they submit. Chair Takaki asked if 90 days a reasonable time to respond. Mr. Malahoff could not respond but stated that 90 days appears to be a standard throughout the area charter on

various deadlines. Commissioner Myers what if there was a provision to ask for extensions is that reasonable. Mr. Malahoff would have to confer with Councilmember Marshall.

Commissioner Chang asked if, under the proposal, does the department have the prerogative to issue a statement that would result for the department to have more time and if the department would be able to get around the deadline. Mr. Eng replied that he is unsure how it would be applied. They have started making quarterly reports to the Council on progress; some reports take more than 90 days, some take less. Commissioner Chang asked Mr. Eng if this proposal would constrain the department on matters that require serious analysis. Mr. Eng replied that it could though feels the proposal is not necessary.

Council Chair Donovan Dela Cruz testified in support. He went on to state the 90 days timeframe is sufficient and by law the Planning Commission only has 90 days and feels the department should be able to respond also.

6. **PROPOSAL 38** - Planning; Various proposals regarding planning and zoning.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Oppose)
2. Gary Okino, Councilmember, Honolulu City Council (Oppose)

Written testimony:

NONE

Henry Eng, Director of the Department of Planning and Permitting, testified in opposition. He indicated that the Department has a non-funded second deputy position currently. Mr. Eng stated that they are concerned about the duplicative review procedure and would rather streamline the process.

Councilmember Gary Okino testified in opposition. He stated that he has concerns about the new structure of the Planning Commission. The position is a non-elective body that will be given the authority to create legislation without accountability to the public. He feels that they should keep Planning Commission the way it currently is. Commissioner Sullivan asked if he had any comments regarding functional plans be taken out of DDC and put in the line agencies. Councilmember Okino feels it's a good recommendation for better functional planning and needs to have a connection with the Planning Department.

7. **PROPOSAL 67** - Permit and Licenses; Ensure the protection of natural and cultural resources and public health in the event of automatic approval of permits/licenses.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Oppose)
2. Jeff Mikulina, Commissioner, City Charter Commission (Support)
3. William Woods (Support)

Written testimony:
NONE

Henry Eng, Director of the Department of Planning and Permitting, testified in opposition. He stated this proposal would undercut the premise of automatic approval.

William Woods testified in support. He states that he is opposed to automatic approval and feels this impacts on public health. He went on to state that the language to include public health is ambiguous. Commissioner Lendio asked if this is better through ordinance versus a charter change, and feels it's a legislative concern than a charter change. Mr. Woods agreed, but feels if this relates to an existing ordinance about automatic approval, than feels adding public health provision is a good idea to prevent automatic approval and to protect from an ordinance, but he is not sure if relates or if it will impact to current ordinances or rather will create a mechanism for automatic approval. Commissioner Sullivan stated there was a state law that mandated automatic approval and asked if that has been changed. Mr. Woods is unclear but knows the state has policies for automatic approval for certain things, and doesn't know if the city has that as well and thinks the city has tried to implement on their own without being required at one time.

Commissioner Jeff Mikulina testified in support. Commissioner Mikulina stated his reasons for his submission of the proposal. He stated there was a state law passed in 1998 and various counties had to respond and develop rules, and he has concerns about permits being approved by default without the affirmative vote of the Planning Commission but because of a timeframe.

Commissioner Chang asked Corporation Counsel if the state law as language is constructed gives the county the latitude in the proposed language. Deputy Corporation Counsel Lori Sunakoda of Corporation Counsel responded that the county does have some latitude with respect to implementation of the HRS statute, but the latitude is restricted to the extent that it is not consistent with state law. If the language of this proposal is determined by a court to be in conflict with the HRS statutes, then that would present a problem legally as referred to as preemption. Commissioner Chang asked if Commissioner Lendio's comments of ambiguity of the proposal is accurate. Deputy Corporation Counsel Sunakoda stated it is well taken and is an issue.

8. [PROPOSAL 69](#) - Planning and Zoning; Require 2/3rds vote for Planning Commission and City Council before agricultural land can be converted to urban use.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Support)
2. William Woods (Support)

Written testimony:
NONE

William Woods testified in support. He feels that it's important to use the supermajority of the

Council to make a decision on agricultural land and feels agricultural an asset to the island.

Henry Eng, Director of the Department of Planning and permitting testified in support the 2/3 votes and feels it is in the public interest. Commissioner Lendio asked what is the difference with proposals 69 and 47. Mr. Eng responded that Proposal 69 only refers to changes in the agricultural land. Proposal 47 might be a little broader. Chair Takaki asked staff if they have any other comments on proposals 69 and 47. Commissioner Lendio asked if Proposal 69 is encompassed in proposal 21 and 47 if it would be redundant or duplicative or is it something separate. Commissioner Mikulina replied that Proposal 69 was to include all agricultural lands. Commissioner Sullivan asked regarding the terms conversion through urban usage, asked how would the department interpret that because it's not referring to a zoning designation. Mr. Eng replied that converting from agricultural to some other use; other uses being residential, commercial and industrial. While urban and agricultural is often a state Land Use Commission term, it is also used in their development plans. Commissioner Sullivan asked if it was too broad. Mr. Eng replied if it proceeds they'll look into more details, but they had little time to do research. Commissioner Sullivan stated that she would appreciate if they could look at special use permits if the proposal should pass.

Chair Takaki asked Commissioner Mikulina for clarification of the voting count from 5-4 to 6-3. Commissioner Mikulina responded in the affirmative.

9. [PROPOSAL 72](#) - Zoning; Shift the burden of demonstrating water availability to those seeking to rezone land for large projects.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Oppose)
2. D. Kapua Sproat, Attorney for Earthjustice (Supports)
3. William Woods (Supports)

Written testimony:

1. D. Kapua Sproat, Attorney for Earthjustice (Supports)

Henry Eng, Director of the Department of Planning and Permitting, testified in opposition as they feel this is not a charter issue. This is the responsibility of the Board of Water Supply and should not be imposed on an applicant.

Kapua Sproat, Attorney for Earthjustice, testified in support. Ms. Sproat summarized her written testimony into the record. Commissioner Hirano asked what is the role of the State Water Commission in identifying the supply of water. Ms. Sproat replied that Article 11 Sections 1 and 7 of the Hawaii State constitution establish the public trust and establish the State Water Commission as the body that has jurisdiction of the water resources. In Hawaii there's a designated system of water law, and in designated water management areas in all of the island of Oahu except for Waianae, there is a designated water management area. Anyone who wants to use, withdraw or consume needs to get a water use permit from the State Water Commission. There are 7 different criteria for getting the permit and 49A6 specifically states that applicant has

to demonstrate that its use is consistent with state land use designation in the policy. The State Water Commission is the overseeing branch, but an applicant for water does need to establish land use designations and policies.

Commissioner Hirano asked for clarification for the statement “can demonstrate a sufficient water supply for at least 25 years”, who can project what is the sufficient water supply? Ms. Sproat responded that currently someone can apply to get a zone change and then not do anything on the project for 4, 5, 10, 20 or more years. She gave examples of the Koa Ridge project or any of the development for Central Oahu. Zoning changes were made in the 1970’s or 1980’s when there was a larger water supply available, and when the developer is ready to move forward with project they go to the Board of Water Supply and advise they are ready for water use. When zoning change approval was done 20 years ago, BWS advised developer that there was sufficient water then, but times have changed. Developer would then later state that they have investment back expectations and since receiving their approval so many years ago are willing to sue if the BWS doesn’t provide their water meters. She went on to say the current proposal could help the county against lawsuits and shifts the burden onto the applicant and away from the Board of Water Supply.

Commissioner Coffee asked Ms. Sproat how realistic for a developer to project a 25 year supply. Ms. Sproat responded it is realistically now, in the past there were problems in the past quantifying how much water were available in the aquifers. With improvements with GIS, State Water Commission is putting together a better program and knows how much water is permitted and actual use within aquifer. The water use permits under the State Water Commission are generally issued for a four-year time frame.

Commissioner Grau questioned the 25 years timeframe and why not perpetuity? Ms. Sproat responded that after reading the proposal and attachments stated that the proposals was modeled after California’s law which specifically incorporates the 20 year timeframe on five year increments. The proposal is based on the California law, which has also proved to be very effective.

Commissioner Lendio asked if Ms. Sproat felt the existing system did not work. Ms. Sproat responded that the proposal will help improve the existing system and noted the existed system is not working as well as it should. Commissioner Lendio then went on to ask if it will provide a basis to protect the City from lawsuits and questioned the existence of the eminent domain laws. Ms. Sproat agreed regarding the eminent domain law. Stated that Proposal 72 isn’t anything that’s consistent with the State Constitution and water code. Commissioner Lendio asked for clarification of Ms. Sproat’s concern on the proposal. Ms. Sproat responded that her interest in the proposal is in preserving the water resource and also protecting the resource and protecting the county against taking claim. She feels the proposal is fair which provides certainty for developers. Commissioner Lendio stated that she doesn’t have a problem with general language in Charter saying that it should not be inconsistent with State or City law, but doesn’t agree with the specific language of the proposal being in the Charter and feels it should be a legislative function.

Commissioner Chang questioned from the legal point of view if the City is at risk in having to provide restitution to developers who originally got the land. He asked if there were anything currently in the Charter or City Ordinance that limits the time the permit is valid. Is there anything in the Charter that gives the city some type of protection? Deputy Corporation Counsel Lori Sunakoda responded with respect to Commissioner Chang question regarding prior testifier noted that their office is in litigation regarding Waiahole case, she is not aware of any other pending litigation involving allegations regarding regulatory takings involving the type of scenario described by Ms. Sproat. Deputy Corporation Counsel Sunakoda stated legal comments concerning the proposal their primary concern would be the proposal to shift the burden that's already been established under state law pursuant to HRS §174C-49(a)(6) would be their additional comments and offered to look up if there were any other litigation currently. She advised the Commission of the organizational changes within Corporation Counsel and that Corporation Counsel is not taking an active role in Board of Water Supply legal counsel and the department has there own legal representation.

William Woods feels the proposal of shifting the burden is important but feels the proposal needs to be reworded. Also feels the law needs to be very clear and has a concern with the definition of a large project and may need to be adjusted in terms of Charter language, but merits going forward and feels it cold be combined with Proposal 94 to something more generic.

10. PROPOSAL 94 - Zoning; Require that developments of 100 units or greater install solar water heaters as a condition of rezoning.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Oppose)
2. William Woods (Support)

Written testimony:

NONE

Henry Eng, Director of the Department of Planning and permitting testified in opposition as they feel this is not a charter issue. He stated that the requirement of the proposal may become impediment and concerns the department.

William Woods testified and referred to his previous statement.

11. PROPOSAL 99 - Development Plans and Zoning; Require that when an acre of land is converted from agricultural or preservation designations, an acre of land will be converted to those designations, ensuring no net loss of agriculture or preservation lands.

The following individuals testified:

1. Henry Eng, Director, Department of Planning and Permitting (Oppose)
2. Jeff Mikulina, Commissioner, City Charter Commission (Support)
3. William Woods (Support)

Written testimony:
NONE

Henry Eng, Director of the Department of Planning and Permitting, testified in opposition as they feel this is not a charter issue. He stated this proposal would preclude consideration of future planning options, it would freeze the present balance and doesn't leave latitude for planners to consider changes and expenses.

William Woods testified in support. He feels the proposal regarding the land use issue is directly related to Charter in policy. Mr. Woods went on to comment the proposal affirms the concept and division of agriculture land as important element of the City and whether the City puts a priority of agriculture at a level that's protected. He stated that you can't create more agriculture land and strengthen where agriculture is in terms of the County.

Commissioner Mikulina testified in support. He stated there is limited land with tremendous pressures on it. He referred to a study that was done in 1992 of the last boundary amendment review done by the state. There were many acres approved for development but not yet developed. Commissioner Mikulina feels that land should be used before moving into preservation and agriculture land. Commissioner Lendio asked Commissioner Mikulina if the proposal is an inflexible mandate and doesn't allow for implementation of the development plans that have been developed over the years? Commissioner Mikulina replied not necessarily; he feels the island land is limited. Commissioner Lendio also stated there are interest groups who are interested in preservation of agriculture, conservation designation and feels they should be done through legislative process and not through Charter.

Chair Takaki asked for a motion for a five-minute recess. Commissioner Myers motioned for a five-minute recess. Commissioner Hirano seconded that motion. Commission took a 5-minute recess at 8:56 p.m.

Chair Takaki reconvened the meeting at 9:05 p.m. and returned to Agenda Item 4B - Discussion and Action – Initial Discussion and Vote on Proposal Items.

ACTION:

B. RELATING TO PLANNING AND ZONING

1. [PROPOSAL 7](#) - Sustainable Community Plans and Development Plans.

ACTION – Proposal 7 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Sullivan. No discussion.

AYES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA,
LENDIO, MEDER, MIKULINA, MYERS, PACOPAC, SULLIVAN - 12

NOES: NONE
EXCUSED: TOM – 1

2. **PROPOSAL 21** - Establish urban growth boundaries and agricultural protection zones on Oahu.

ACTION – Proposal 21 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Pacopac. Discussion followed.

Commissioner Mikulina noted that Proposals 21 and 47 are similar and that only one of these proposals move forward to public hearing. He suggested on voting to pass Proposal 21, as Chair Takaki noted the Proposal is broader than Proposal 47. Executive Administrator Narikiyo confirmed Chair Takaki's comments. No further discussion.

AYES: CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO,
MEDER, MIKULINA, MYERS, PACOPAC, SULLIVAN - 11
NOES: TAKAKI - 1
EXCUSED: TOM – 1

3. **PROPOSAL 47** - Establish urban growth boundaries on Oahu.

ACTION – Proposal 47 to move on for further consideration – motion passed. Moved by Commissioner Chang, seconded by Commissioner Sullivan. No further discussion.

AYES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA,
LENDIO, MIKULINA, MYERS, PACOPAC, SULLIVAN
NOES: MEDER - 1
EXCUSED: TOM – 1

4. **PROPOSAL 22** - Planning Commission; Restore the position of Executive Secretary.

ACTION – Proposal 22 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Pacopac. No discussion.

AYES: CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA, LENDIO,
MEDER, MIKULINA, MYERS, PACOPAC, SULLIVAN - 11
NOES: TAKAKI –1
EXCUSED: TOM – 1

5. **PROPOSAL 32** - Planning Commission; Establish deadlines for Mayor and City Council to act on certain Planning Commission recommendations.

ACTION – Proposal 32 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Myers. Discussion followed.

Commissioner Myers commented in favor of deadlines as he feels deadlines are necessary to keep things in order. Commissioner Lendio would like to hear from the Planning Commission on the proposal at the next level. Commissioner Mikulina commented that he will be voting against the measure as he feels that DPP should be allowed as much time for the department to be able to hear public concerns and address issues in response to Council. Commissioner Pacopac stated that he agrees with Commissioner Mikulina as some issues demand more time than others and feels the department should be allowed more time. Commissioner Myers commented that DPP should respond with a request for more time, rather than not respond. Commissioner Chang asked for clarification of Commissioner Myers' comments. Commissioner Myers clarified that his comments were regarding deadline process, the department could ask for an extension of time. He feels that is a reasonable process and this proposal may need amending at a later date should this pass. Commissioner Chang asked Commissioner Myers for clarification on Commissioner Myers position on the proposal. Commissioner Myers clarified he is in favor for further consideration. No further discussion.

AYES: TAKAKI, CHANG, COFFEE, HIRANO, KAWASHIMA, LENDIO,
MEDER, MYERS - 8
NOES: GRAU, MIKULINA, PACOPAC, SULLIVAN - 4
EXCUSED: TOM - 1

6. **PROPOSAL 38** - Planning; Various proposals regarding planning and zoning.

ACTION – Proposal 38 to move on for further consideration – motion failed. Moved by Commissioner Mikulina, seconded by Commissioner Lendio. No discussion.

AYES: NONE
NOES: TAKAKI, CHANG, COFFEE, GRAU, HIRANO, KAWASHIMA,
LENDIO, MEDER, MIKULINA, MYERS, PACOPAC, SULLIVAN - 12
EXCUSED: TOM - 1

7. **PROPOSAL 67** - Permit and Licenses; Ensure the protection of natural and cultural resources and public health in the event of automatic approval of permits/licenses.

ACTION – Proposal 67 to move on for further consideration – motion failed. Moved by Commissioner Mikulina, seconded by Commissioner Grau. Discussion followed.

Commissioner Lendio shared her concerns regarding conflict of state law and whether it would be preempted by a legal challenge. Commissioner Mikulina feels it's not disallowing automatic approval but only affects cases that impinge on public health, natural resources or Native Hawaiian rights on Oahu. He noted that there is a current law regarding automatic permit approvals and there was not much public hearing, and feels this proposal should be heard by the public on how they feel about automatic approval on Oahu. Chair Takaki asked Commissioner Mikulina if the automatic approval process has caused public harm in terms in someone's physical health. Commissioner Mikulina responded that there were two projects, Sea Life Park chapel and a home in the back of Lanikai conservation land that were automatically approved a

few years back. He doesn't know that circumstances of both but the timeframe passed without affirmative action by DLNR. Commissioner Mikulina noted a power plant project on the Big Island that was approved despite a 3 to 2 vote in opposition; the power plant was approved because it did not have the necessary 4 votes to take action. The law does exist and affects the environment. Chair Takaki asked for clarification if the Sea Life wedding chapel would fall under the proposal. Commissioner Mikulina responded that would require someone to challenge. No further discussion.

AYES: COFFEE, GRAU, KAWASHIMA, MEDER, MIKULINA, MYERS - 6
NOES: TAKAKI, CHANG, HIRANO, LENDIO, PACOPAC, SULLIVAN - 6
EXCUSED: TOM - 1

8. **PROPOSAL 69** - Planning and Zoning; Require 2/3rds vote for Planning Commission and City Council before agricultural land can be converted to urban use.

ACTION – Proposal 69 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Mikulina. No discussion.

AYES: TAKAKI, CHANG, COFFEE, GRAU, KAWASHIMA, LENDIO,
MEDER, MIKULINA, MYERS, PACOPAC, SULLIVAN - 11
NOES: HIRANO - 1
EXCUSED: TOM - 1

9. **PROPOSAL 72** - Zoning; Shift the burden of demonstrating water availability to those seeking to rezone land for large projects.

ACTION – Proposal 72 to move on for further consideration – motion failed. Moved by Commissioner Grau, seconded by Commissioner Mikulina. Discussion followed.

Commissioner Grau would like to get experts such as geologists and water resource people around the state, particularly from the University of Hawaii. Commissioner Kawashima commented that the testimony given early by Ms. Sproat was based on a California law and the bill was attached. The proposal significantly expands the California bill, and stated the Senate bill states the responsibility still lies on the legislative body and doesn't put it on the developer and therefore is voting against the measure. Commissioner Chang will also be voting against the measure. He commented that he finds it troublesome with an issue as water resource which is designated by state constitution and city charter currently states which body is to be responsible for maintaining and caring for the water quality and resource; to be put upon a developer doesn't make sense to him. Commissioner Grau asked about responsibilities that are placed upon developers for environmental issues. He would consider this to be the same and questioned the expertise availability for the developer to access to get research done. Commissioner Mikulina responded to Commissioner Kawashima's comments regarding the California bill. Commissioner Mikulina clarified that there were two bills, California Bills 610 and 221 were

taken together and shifted the burden onto the developer and it was enacted a few years ago.

AYES: GRAU, MEDER, MIKULINA, SULLIVAN - 4
NOES: TAKAKI, CHANG, COFFEE, HIRANO, KAWASHIMA, LENDIO,
MYERS, PACOPAC - 8
EXCUSED: TOM – 1

10. PROPOSAL 94 - Zoning; Require that developments of 100 units or greater install solar water heaters as a condition of rezoning.

ACTION – Proposal 94 to move on for further consideration – motion failed. Moved by Commissioner Grau, seconded by Commissioner Meder. Discussion followed.

Commissioner Myers has issues regarding language being specific and will be voting against it. Commissioner Lendio noted that the current proposal is before the legislative body via an ordinance or in the process of being able to negotiated with the department. She also has concerns about affordable housing language. Commissioner Grau commented regarding Commissioner Lendio and Commissioner Myers concerns. Commissioner Grau clarified the Energy Star program did a study on the effect on housing affordability. Commissioner Meder commented that he has concerns regarding the language in this proposal as well as the previous proposal. He feels the issue of affordable housing relates to the cost to the developer and also the savings to the homeowner, and will be voting for the measure. Commissioner Mikulina commented that the majority of residential homes on this island don't have solar hot water heater. Commissioner Meder clarified Commissioner Mikulina statement, stating that majority of the homes in this state do not have solar water heaters but there is 24% market penetration, which is the highest in the country. Commissioner Coffee agrees philosophically but feels it's too specific for the charter. Commissioner Chang echoes Commissioner Coffee remarks and feels the Council should take it up, and the State Legislature has made a requirement that all multi-family dwellings to be allowed to install solar water heater as in the past their rule prohibited. Commissioner Myers also agrees with the intent but needs to be revised. Chair Takaki stated that it seems to be occurring currently. He went on to say that if its economically feasible, as Commissioner Grau and Commissioner Meder say, the developer will look at it hard and there are already incentives in place, not at the city level, but through Hawaiian Electric.

AYES: GRAU, MEDER, MIKULINA - 3
NOES: TAKAKI, CHANG, COFFEE, HIRANO, KAWASHIMA, LENIDO,
MYERS, PACOPAC, SULLIVAN - 9
EXCUSED: TOM – 1

11. PROPOSAL 99 - Development Plans and Zoning; Require that when an acre of land is converted from agricultural or preservation designations, an acre of land will be converted to those designations, ensuring no net loss of agriculture or preservation lands.

ACTION – Proposal 99 to move on for further consideration – motion passed. Moved by Commissioner Lendio, seconded by Commissioner Pacopac. Discussion followed.

Commissioner Lendio feels the proposal should move onto public hearing.

AYES: CHANG, GRAU, KAWASHIMA, LENDIO, MEDER, MIKULINA,
MYERS, SULLIVAN - 8
NOES: TAKAKI, COFFEE, HIRANO, PACOPAC - 4
EXCUSED: TOM – 1

At this juncture, Commissioner Sullivan departed meeting at 9:35 p.m.

For Discussion:

Executive Administrator Narikiyo discussed future meetings to go through the first hearing process on the remaining 74 proposals. Commissioners present decided to meet on January 10 and 24, 2006 for groups two and three. The Commission will discuss the meeting date for the final of four meetings for the first stage of hearing. The Commission also agreed to start meeting at 2:00 p.m. for the next three meetings of first hearing process of the remaining proposals.

IV. Committee Reports

- a. **Report of the Budget Committee** – No Report.
- b. **Report of the Submission and Information Committee** – No Report.
- c. **Report of the Personnel Committee** – No Report.
- d. **Report of the Rules Committee** – No Report.

V. Officers Report

- A. **Chair** – Chair had no report.
- B. **Vice Chair** – Commissioner Mikulina had no report.
- C. **Treasurer** - Commissioner Myers reported that the Charter Commission is on schedule financially.
- D. **Secretary** – Commissioner Pacopac had no report.

VI. Announcements

Executive Narikiyo announced to the Commission that the 2006-2007 budget is due to Council Chair Donovan Dela Cruz in January 2006.

VII. Next Meeting Schedule

The next meeting was set for Tuesday, January 10, 2006 at 2:00 p.m. in the Council Chambers on the Third Floor of Honolulu Hale.

VIII. Adjournment

Meeting was adjourned at 9:45 p.m.